101ST CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
101-212

PERMANENT PROHIBITION AGAINST SMOKING ON SCHEDULED FLIGHTS OF 2 HOURS OR LESS IN DURATION

AUGUST 2, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. ANDERSON, from the Committee on Public Works and Transportation, submitted the following

REPORT

[To accompany H.R. 598]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 598) to amend the Federal Aviation Act of 1958 to prohibit smoking on domestic commercial aircraft flights, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PERMANENT EXTENSION OF SMOKING PROHIBITION.

Section 404(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1374(d)(1)) is amended by striking subparagraph (C).

Amend the title so as to read:

A bill to amend the Federal Aviation Act of 1958 to make the prohibition on smoking on domestic airline flights of 2 hours or less in duration permanent.

PRIOR LEGISLATIVE AND REGULATORY ACTION

The reported bill imposes a permanent ban on smoking on scheduled domestic flights of two hours or less. The bill continues a ban which was imposed in December 1987 as part of Public Law 100-202. The 1987 ban expires on April 23, 1990. The 1987 law also imposed a permanent penalty of $2000 for tampering with lavatory smoke alarms.

H643-10

While the 1987 law was the first time Congress passed legislation restricting smoking in public places, the issue has been a subject of intense public debate for many years, and in many fora. The former Civil Aeronautics Board, the FAA and the Congress have wrestled with the issue over the years.

The Federal government first regulated smoking on commercial aircraft in 1973, under Section 404 of the Federal Aviation Act, when the now sunset Civil Aeronautics Board (CAB) promulgated regulations separating smokers from nonsmokers, and requiring that all commercial flights provide nonsmoking sections large enough to accommodate every passenger who desired to sit in them.

In 1979 the CAB further required the airlines to specifically segregate cigar and pipe smokers, to ban smoking when the aircraft ventilation system was not functioning properly, to ensure that nonsmokers were not unreasonably burdened when a nonsmoking section was sandwiched between two smoking sections, and to guarantee seating to nonsmokers in nonsmoking sections if they complied with the airline's check-in deadline requirement, even if this required expanding the nonsmoking section to accommodate them.

In 1984, the CAB issued revised rules that imposed the following additional requirements on airlines:

Smoking on small airline aircraft (under 30 seats) was prohibited;

Cigar and pipe smoking was prohibited on all flights; and

Smoking whenever the aircraft is on the ground was prohibited.

When the CAB considered the 1984 rule changes, it also considered whether to ban smoking on flights of short duration. In issuing the 1984 rules, the Board rejected a ban on flights of short duration because it found health and safety reasons did not justify such a ban. The Board also found that the administrative and practical problems of enforcing a short-term smoking ban and the resulting confusion outweighed the additional comfort provided to nonsmokers by a short-term smoking ban.

Public Law 98-466, enacted on October 1, 1984, required the Secretary of Transportation to commission an independent study by the National Academy of Sciences (NAS) to determine whether the requirements governing airline cabin air were comparable to nonaviation requirements, and adequate to maintain public and occupational health for passengers and crew. The Act also required DOT to submit the report, along with its own comments and recommendations, to Congress.

DOT's instructions to NAS covered a number of cabin air conditions and pollutants, including tobacco smoke. NAS was then asked to recommend remedies for problems discovered, and to outline the safety precautions necessary to protect passengers in the event of in-flight fires.

The report, "The Airliner Cabin Environment; Air Quality and Safety." was presented to DOT in August, 1986. In it, the Commission made 21 recommendations, including a ban on smoking on all domestic commercial flights.

In February, 1987, DOT submitted its follow-up "Report to Congress on Airline Cabin Air Quality." DOT stated that:

> While we recognized that exposure to environmental tobacco smoke (ETS) could be viewed as a problem by some crew passengers, we believe that further study is needed before the Department can propose a definitive response to this recommendation.

That study is now underway with a final report to Congress due in February 1990.

In December of 1987, Congress passed the current, 2-year ban on smoking on scheduled flights of 2 hours or less.

Health Concerns

A series of health findings over the years has fueled concern over the effect of environmental tobacco smoke, or ETS, particularly in the closed, poorly ventilated airliner cabin.

The 1986 Report of the Surgeon General, "The Health Consequences of Involuntary Smoking," found that involuntary smoking is the cause of disease, including lung cancer, in healthy nonsmokers; that the children of parents who smoke, compared with the children of nonsmoking parents, have an increased frequency of respiratory infections, increased respiratory symptoms, and slightly smaller rates of increase in lung function as the lung matures; and that simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, exposure of nonsmokers to environmental tobacco smoke.

The National Academy of Sciences, also in 1986, published "Environmental Tobacco Smoke—Measuring Exposures and Assessing Health Effects," which established that the risk of lung cancer is increased even in those who smoke only a few cigarettes per day, and that this implies that there is no safe level of exposure to tobacco smoke, including the level of exposure experienced by passive smokers.

The NAS also, in this publication, established that the same carcinogens are present in sidestream smoke and mainstream smoke, and that many chemicals are found at higher concentrations in the sidestream smoke, which is the major component of environmental tobacco smoke.

In that same year, the NAS, in its "Airliner Cabin Environment, Air Quality and Safety," the report requested by Congress, recommended a ban on smoking on all domestic commercial flights, for four major reasons: to lessen irritation and discomfort to passengers and crew; to reduce potential health hazards to cabin crew associated with ETS; to eliminate the possibility of fires caused by cigarettes, and to bring the cabin air quality into line with established standards for closed environments.

The "Airliner Cabin Environment" also concluded that ventilation was not a solution to tobacco smoke:

> Because of the high concentrations of ETS generated in the smoking zone, it cannot be compensated for by increased ventilation in that zone.
>
> If the lowest rate of ventilation permitted by current equipment design were used under conditions of full or nearly full passenger loads, the resulting ventilation rate

> would be at the minimum determined to provide acceptable air quality when smoking is not permitted and other contaminant sources are not present.

NAS further found that simple physical separation does not protect the nonsmoking passenger.

> Strict separation of the airplane into smoking and nonsmoking zones does not prevent exposure of flight attendants and nonsmoking passengers to ETS, because of the location of galleys and lavatories in the smoking areas.

A National Cancer Institute study published February 10, 1989, in the Journal of the American Medical Association, buttressed these conclusions with its own findings, that:

> Some nonsmoking areas attained nicotine levels comparable to or higher than those in the smoking sections.
>
> Cotinine, a metabolite of nicotine, was found in test subjects' urine 3 days after the flight.
>
> Exposure was dose-responsive, i.e. passengers exposed to higher levels of ETS had higher levels of urinary continine, more frequent eye and nose symptoms, more annoyance with smoking, and a more common perception of a smoky environment.

Dr. Ronald M. Davis of the Centers for Disease Control of the United States Public Health Service testified that:

> A ban on smoking on all commercial aircraft flights would result in greater protection of the health of airport passengers and crew.

Dr. Davis has testified that his statement had been cleared by the Office of Management and Budget and the White House.

In light of these findings, the Committee has concluded that limits on smoking on airlines will benefit the health of airline passengers and flight attendants with respect to the health of flight attendants.

The Committee has also received convincing testimony from the attendants themselves that limits on smoking on airlines will be of particular benefit to their health.

At the Committee's 1989 hearings on smoking legislation Connie Chalk a flight attendant for a major airline testified that:

> The lung specialist warned me that if I did not stop working smoking flights, I only had five to seven years to live.
>
> * * * * *
>
> It is frightening for me, a previously healthy woman, to face the rest of my life with these constraints, this illness and a possible terminal condition.

Susan Bianchi-Sand, President of the Association of Flight Attendants testified that:

> Flight attendants are on board for safety reasons, and are willing to risk their lives for passenger safety, but we

> are not willing to risk our lives so that passengers can smoke.
>
> * * * * *
>
> We should not have to choose between our health and our careers, and we should not have to work in an environment that can cause cancer and risk not fulfilling our lives with our family and our friends.

Suzette Ahrendt a flight attendant for a major carrier testified that:

> My body knows the difference between a non-smoking and a smoking flight. My mental alertness on a smoking flight is way down. My respiratory system is upset. On a non-smoking flight, I can work all day, I can fly an eight-hour day, that is flying time—a 14-hour duty day—on non-smoking flights and I feel fairly normal, and I can have a couple of glasses of water and I feel like a real person.
>
> * * * * *
>
> What the two-hour ban has done for us is made us realize that we don't have to feel this way. We thought all those years of working in smoking flights and in the smoking environment that we felt that way because of maybe jet lag. But now we feel a lot better on the non-smoking flights.

This powerful personal testimony underscores the importance of restricting smoking in aircraft to protect the health of flight attendants who must work long hours in the confined environment of an airline cabin.

Committee Action and Vote

With respect to clause 2(l)(2) (A) and (B) of rule XI of the Rules of the House of Representatives, the Committee, with a Majority present, favorably reported H.R. 598 as amended.

Prior to the Committee's action, the Subcommittee on Aviation on June 22, 1989, held hearings on H.R. 160, H.R. 561, H.R. 598, and H.R. 817, which would limit or ban smoking on commercial airliners. On July 18, 1989, the Subcommittee on Aviation favorably reported H.R. 598, as amended, to the full Committee.

Oversight Findings and Recommendations

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee reports that no separate hearings were held on the subject matter of the legislation by the Subcommittee on Investigations and Oversight.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to the subject matter.

CONGRESSIONAL BUDGET ACT REQUIREMENTS

With respect to clause 2(l)(3)(B) of the rule XI of the Rules of the House of Representatives, and in compliance with section 308(a) of the Congressional Budget Act of 1974, the Committee reports that H.R. 598 does not provide any new budget authority or new or increased tax expenditures.

With respect to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received the following report from the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1989.

Hon. GLENN M. ANDERSON,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 598, a bill to amend the Federal Aviation Act of 1958 to prohibit smoking on domestic commercial aircraft flights, as ordered reported by the House Committee on Public Works and Transportation, July 28, 1989. CBO estimates that enactment of the bill would result in no significant cost to the federal government and in no cost to state or local governments.

H.R. 598 would make permanent the temporary prohibition against smoking on airline flights scheduled for two hours or less in duration. The current ban is to expire in April, 1990. There could be some enforcement costs to the Federal Aviation Administration associated with the prohibition. However, CBO expects that such costs would not be significant.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

COST ESTIMATE OF THE LEGISLATION

With respect to clause 7(A)(2) of rule XIII of the Rules of the House of Representatives, the Committee reports that no cost estimate of H.R. 598 was submitted to the Committee by a government agency.

INFLATIONARY IMPACT ANALYSIS

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee reports that there should be no inflationary impact on the national economy by enactment of H.R. 598.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 404 OF THE FEDERAL AVIATION ACT OF 1958

RATES FOR CARRIAGE OF PERSONS AND PROPERTY

CARRIER'S DUTY TO PROVIDE SERVICE, RATES, AND DIVISIONS

SEC. 404. (a) * * *

* * * * * * *

PROHIBITION AGAINST SMOKING ON SCHEDULED FLIGHTS AND TAMPERING WITH SMOKE ALARM DEVICES

(d)(1)(A) * * *

* * * * * * *

[(C) The provisions of paragraph (1) of this subsection are repealed effective on the expiration of the 28-month period following the date of enactment of this subsection.]

* * * * * * *

○